

AN ACT

relating to the office of ombudsman for the Department of Family and Protective Services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter Y, Chapter 531, Government Code, is amended to read as follows:

SUBCHAPTER Y. OMBUDSMAN FOR THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES [~~CHILDREN AND YOUTH IN FOSTER CARE~~]

SECTION 2. Section 531.991(2), Government Code, is amended to read as follows:

(2) "Ombudsman" means the individual appointed as the ombudsman for the Department of Family and Protective Services [~~children and youth in foster care~~].

SECTION 3. The heading to Section 531.992, Government Code, is amended to read as follows:

Sec. 531.992. OMBUDSMAN FOR THE DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES [~~CHILDREN AND YOUTH IN FOSTER CARE~~].

SECTION 4. Section 531.992, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The governor [~~executive commissioner~~] shall appoint an ombudsman for the Department of Family and Protective Services [~~children and youth in foster care~~] to serve at the will of the governor [~~executive commissioner~~].

1 (d) The ombudsman may not use the name or any logo of the
2 department on any forms or other materials produced and distributed
3 by the ombudsman.

4 SECTION 5. Subchapter Y, Chapter 531, Government Code, is
5 amended by adding Section 531.9921 to read as follows:

6 Sec. 531.9921. CONFLICT OF INTEREST. A person may not serve
7 as ombudsman if the person or the person's spouse:

8 (1) is employed by or participates in the management
9 of a business entity or other organization receiving funds from the
10 department;

11 (2) owns or controls, directly or indirectly, any
12 interest in a business entity or other organization receiving funds
13 from the department; or

14 (3) is required to register as a lobbyist under
15 Chapter 305 because of the person's activities for compensation on
16 behalf of a profession related to the operation of the department.

17 SECTION 6. Section 531.993, Government Code, is amended to
18 read as follows:

19 Sec. 531.993. DUTIES OF OMBUDSMAN. (a) The ombudsman
20 serves as a neutral party in assisting:

21 (1) children and youth in the conservatorship of the
22 department with complaints regarding issues within the authority of
23 the department or another health and human services agency; and

24 (2) persons with a complaint against the department
25 regarding case-specific activities of the programs of the
26 department, including adult protective services, child protective
27 services, child-care licensing, and statewide intake.

1 (b) The ombudsman shall:

2 (1) develop and implement statewide procedures to:

3 (A) receive complaints from children and youth in
4 the conservatorship of the department and other persons with a
5 complaint against the department;

6 (B) review complaints filed with the ombudsman
7 and take appropriate action, including:

8 (i) conducting an investigation into
9 individual complaints that allege violations of department or
10 agency procedure or policy or other violations; and

11 (ii) referring to department or agency
12 management for resolution any trends or systemic issues identified
13 in complaints;

14 (C) provide any necessary assistance to children
15 and youth in the conservatorship of the department in making
16 complaints and reporting allegations of abuse or neglect to the
17 department;

18 (D) maintain the confidentiality of:

19 (i) the ombudsman's communications and
20 records;

21 (ii) records of another person that have
22 been provided to the ombudsman; and

23 (iii) communications of another person with
24 the ombudsman; and

25 (E) ensure that the department and any person or
26 a child or youth in the conservatorship of the department who files
27 a complaint with the ombudsman are informed of the results of the

1 ombudsman's investigation of the complaint, including whether the
2 ombudsman was able to substantiate the person's, child's, or youth's
3 complaint;

4 (2) collaborate with the department to develop and
5 implement an annual outreach plan to promote awareness of the
6 ombudsman among the public, children and youth in the
7 conservatorship of the department, family members and caretakers of
8 those children, and facilities licensed by the department and that
9 includes:

10 (A) how the office may be contacted;

11 (B) the purpose of the office; and

12 (C) the services the office provides;

13 (3) issue and file with the department and any
14 applicable health and human services agency a report that contains
15 the ombudsman's final determination regarding a complaint and any
16 recommended corrective actions to be taken as a result of the
17 complaint;

18 (4) establish a secure form of communication with any
19 individual who files a complaint with the ombudsman; ~~and~~

20 (5) collaborate with the department to identify
21 consequences for any retaliatory action related to a complaint
22 filed with the ombudsman, in accordance with Section 40.0041(g),
23 Human Resources Code; and

24 (6) monitor and evaluate the department's corrective
25 actions taken in response to a recommendation by the ombudsman.

26 (c) The ombudsman's final determination in a report
27 described by Subsection (b)(3) must include a determination of

1 whether there was wrongdoing or negligence by the department or an
2 agent of the department or whether the complaint was frivolous and
3 without merit. If the ombudsman determines there was wrongdoing or
4 negligence, the ombudsman shall recommend corrective actions to be
5 taken by the department.

6 (d) The ombudsman may attend any judicial proceeding
7 related to a complaint filed with the office.

8 SECTION 7. Subchapter Y, Chapter 531, Government Code, is
9 amended by adding Section 531.9931 to read as follows:

10 Sec. 531.9931. DIVISION OF OMBUDSMAN FOR CHILDREN AND YOUTH
11 IN FOSTER CARE. (a) The division of the ombudsman for children and
12 youth in foster care is created within the office of the ombudsman
13 for the purpose of:

14 (1) receiving complaints from children and youth in
15 the conservatorship of the department as provided under Section
16 531.993(a)(1);

17 (2) informing children and youth in the
18 conservatorship of the department who file a complaint under this
19 subchapter about the result of the ombudsman's investigation of the
20 complaint, including whether the ombudsman was able to substantiate
21 the child's or youth's complaint; and

22 (3) collaborating with the department to develop an
23 outreach plan for children and youth in the conservatorship of the
24 department to promote awareness of the ombudsman.

25 (b) If a child or youth in the conservatorship of the
26 department contacts the ombudsman by telephone call to report a
27 complaint under this subchapter, the call shall be transferred

1 directly to a person employed by the division of the ombudsman
2 created under this section.

3 SECTION 8. Subchapter Y, Chapter 531, Government Code, is
4 amended by adding Section 531.9941 to read as follows:

5 Sec. 531.9941. DISPUTES REGARDING FOSTER CHILDREN. (a) A
6 child-placing agency responsible for a foster child may refer a
7 dispute regarding the child's placement or the permanency plan for
8 the child to the ombudsman by filing a complaint with the ombudsman.

9 (b) The complaint filed with the ombudsman must include a
10 clear explanation of the dispute and the requested remedy.

11 (c) The ombudsman shall notify the court with jurisdiction
12 over the child's case of any investigation of a complaint filed
13 under this subchapter.

14 SECTION 9. Section 531.997, Government Code, is amended to
15 read as follows:

16 Sec. 531.997. RETALIATION PROHIBITED. The department or
17 another health and human services agency may not retaliate against
18 a department employee, a child or youth in the conservatorship of
19 the department, or any other person who in good faith makes a
20 complaint to the ombudsman or against any person who cooperates
21 with the ombudsman in an investigation.

22 SECTION 10. Section 531.998(b), Government Code, is amended
23 to read as follows:

24 (b) The report must be submitted to the governor, the
25 lieutenant governor, each standing committee of the legislature
26 with jurisdiction over matters involving the department, each
27 member of the legislature, the executive commissioner, and the

1 commissioner of the department not later than December 1 of each
2 year. On receipt of the report, the department and the commission
3 shall make the report publicly available on the department's and
4 the commission's Internet websites.

5 SECTION 11. As soon as practicable after the effective date
6 of this Act, the commissioner of the Department of Family and
7 Protective Services shall:

8 (1) abolish the office of consumer affairs in the
9 department; and

10 (2) transfer any department funds and resources
11 allocated to the office of consumer affairs to the ombudsman for the
12 Department of Family and Protective Services created under
13 Subchapter Y, Chapter 531, Government Code, as amended by this Act.

14 SECTION 12. This Act takes effect only if a specific
15 appropriation for the implementation of the Act is provided in a
16 general appropriations act of the 85th Legislature.

17 SECTION 13. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 213 passed the Senate on May 4, 2017, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2017, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 213 passed the House, with amendment, on May 19, 2017, by the following vote: Yeas 141, Nays 3, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor